

AMENDED IN ASSEMBLY MARCH 3, 2016

AMENDED IN ASSEMBLY AUGUST 27, 2015

CALIFORNIA LEGISLATURE—2015–16 SECOND EXTRAORDINARY SESSION

## ASSEMBLY BILL

**No. 9**

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**Introduced by Assembly Members Thurmond and Nazarian**  
*(Principal coauthor: Senator Liu)*

July 16, 2015

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An act to amend Sections 104420 and 104466 of, and to add Article 4 (commencing with Section 104559) to Chapter 1 of Part 3 of Division 103 of, the Health and Safety Code, relating to tobacco use programs.

### LEGISLATIVE COUNSEL'S DIGEST

AB 9, as amended, Thurmond. Tobacco use programs.

Existing law establishes the Tobacco Education and Research Oversight Committee to provide advice to the State Department of Public Health and the State Department of Education with respect to policy development, integration, and evaluation of tobacco education programs. Existing law requires the State Department of Education to allocate funds to county offices of education for tobacco use prevention, intervention, and cessation activities. Existing law also requires that all school districts and county offices of education that receive funding, as specified, adopt and enforce a tobacco-free campus policy, no later than July of each fiscal year, prohibiting the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles.

This bill would expand eligibility for funding for the tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts,

charter schools, and county offices of education receiving funding under the program adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, as specified, in and on the properties described above and would, in addition, prohibit the use of tobacco and nicotine products in a county office of education, charter school or school district-owned or leased building, on school or district property, and in school or district vehicles without regard to whether those entities receive funding. The bill would also require school districts, charter schools, and county offices of education to prominently display signs at all entrances to school property stating “Tobacco use is prohibited.” The bill would make other technical and clarifying changes.

By imposing new duties on school districts and county offices of education, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 104420 of the Health and Safety Code  
2     is amended to read:  
3     104420. The State Department of Education shall provide the  
4     leadership for the successful implementation of this article in  
5     programs administered by local public and private schools, school  
6     districts, and county offices of education. The State Department  
7     of Education shall do all of the following:  
8     (a) Provide a planning and technical assistance program to carry  
9     out its responsibilities under this article.  
10    (b) Provide guidelines for schools, school districts, county  
11    offices of education, and school district consortia to follow in the  
12    preparation of plans for implementation of antitobacco use  
13    programs for schoolage populations. The guidelines ~~shall~~ shall  
14    do all of the following:

1 (1) Require the applicant agency to select one or more model  
2 program designs and permit the applicant to modify the model  
3 program designs to take special local needs and conditions into  
4 account.

5 (2) Require the applicant agency to prepare for each target  
6 population to be served a description of the service to be provided,  
7 an estimate of the number to be served, an estimate of the success  
8 rate, and a method to determine to what extent goals have been  
9 achieved.

10 (3) Require plan submissions to include a staffing configuration  
11 and a budget setting forth use and distribution of funds in a clear  
12 and detailed manner.

13 (c) Prepare model program designs and information for schools,  
14 school districts, consortia, and county offices of education to follow  
15 in establishing direct service programs to targeted populations.  
16 Model program designs shall, to the extent feasible, be based on  
17 studies and evaluations that determine which service delivery  
18 systems are effective in reducing tobacco use and are cost effective.  
19 The State Department of Education shall consult with the  
20 department, and school districts with existing antitobacco programs  
21 in the preparation of model program designs and information.

22 (d) Provide technical assistance for schools, school districts,  
23 and county offices of education regarding the prevention and  
24 cessation of tobacco use. In fulfilling its technical assistance  
25 responsibilities, the State Department of Education may establish  
26 a center for tobacco use prevention that shall identify, maintain,  
27 and develop instructional materials and curricula encouraging the  
28 prevention or cessation of tobacco use. The State Department of  
29 Education shall consult with the department and others with  
30 expertise in antitobacco materials or curricula in the preparation  
31 of these materials and curricula.

32 (e) Monitor the implementation of programs that it has approved  
33 under this article to ensure successful implementation.

34 (f) Prepare guidelines within 180 days of January 1, 1996, for  
35 a school-based program of outreach, education, intervention,  
36 counseling, peer counseling, and other activities to reduce and  
37 prevent smoking among schoolage youth.

38 (g) Assist county offices of education to employ a tobacco use  
39 prevention coordinator to assist local schools and local public and  
40 community agencies in preventing tobacco use by pupils.

(h) Train the tobacco use prevention coordinators of county offices of education so that they are:

(1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.

(2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.

(3) Able to provide effective technical assistance to schools and school districts.

(i) Establish a tobacco-free school recognition awards program.

(j) As a condition of receiving funds pursuant to this article, the State Department of Education, county offices of education, charter schools, and school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.

(k) (1) Develop, in coordination with the county offices of education, and administer a competitive grant program for school-based, antitobacco education programs and tobacco use intervention and cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. Grants shall be awarded, after consultation with local lead agencies, the committee, and representatives of nonprofit organizations dedicated to the reduction of tobacco-associated disease, to school districts, charter schools, and county offices of education for all pupils in grades 6 to 12, inclusive, that comply with the requirements of paragraphs (2) and, if applicable, (3).

(2) Every school district, charter school, and county office of education that receives a grant pursuant to this section shall provide tobacco use prevention instruction that addresses all of the following essential topics:

(A) Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use.

(B) Reasons that adolescents say they smoke or use tobacco.

(C) Peer norms and social influences that promote tobacco use.

(D) Refusal skills for resisting social influences that promote tobacco use.

(3) Every school district, charter school, and county office of education that receives a grant pursuant to this section for pupils in grades 7 to 12, inclusive, shall provide tobacco use intervention and cessation activities targeted for pupils in high-risk groups.

1 (4) The State Department of Education shall develop criteria  
2 and standards for the allocation of grant awards that consider the  
3 need to balance rural, suburban, and urban projects. In addition,  
4 the State Department of Education shall give priority to applicants  
5 and programs that do all of the following:

6 (A) Target current smokers and pupils most at risk for beginning  
7 to use tobacco.

8 (B) Offer or refer pupils to cessation classes for current smokers.

9 (C) Utilize existing antismoking resources, including local  
10 antismoking efforts by local lead agencies and competitive grant  
11 recipients.

12 (D) Design the project to coordinate with other community  
13 services, including, but not limited to, local health agencies,  
14 voluntary health organizations, and parent organizations.

15 (E) Design the project to use and develop existing services and  
16 resources.

17 (F) Demonstrate an understanding of the role that the  
18 environment and community norms play in influencing tobacco  
19 use.

20 (5) Available funds shall determine grant award amounts.

21 (I) Allocate funds to county offices of education to provide  
22 technical assistance and leadership for tobacco use prevention,  
23 intervention, and cessation programs. The funds shall be allocated  
24 to all participating county offices of education at a minimum  
25 amount of thirty-seven thousand five hundred dollars (\$37,500).  
26 If funds appropriated for purposes of allocating at least thirty-seven  
27 thousand five hundred dollars (\$37,500) to all participating county  
28 offices of education are insufficient, the Superintendent of Public  
29 Instruction shall prorate available funds among participating county  
30 offices of education ensuring that all participating county offices  
31 of education receive an equal minimum level of funding of  
32 thirty-seven thousand five hundred dollars (\$37,500). If funds are  
33 sufficient to provide all participating county offices of education  
34 a minimum of thirty-seven thousand five hundred dollars (\$37,500),  
35 the remaining funds shall be allocated according to the following  
36 schedule based on average daily attendance in the prior year  
37 credited to all elementary, high, and unified school districts, and  
38 to the county superintendent of schools within the county as  
39 certified by the Superintendent of Public Instruction:

1 (1) For counties with 550,000 or more units of average daily  
2 attendance, thirty cents (\$0.30) per average daily attendance.

3 (2) For counties with 100,000 or more and less than 550,000  
4 units of average daily attendance, sixty-five cents (\$0.65) per  
5 average daily attendance.

6 (3) For counties with 50,000 or more and less than 100,000  
7 units of average daily attendance, ninety cents (\$0.90) per average  
8 daily attendance.

9 (4) For counties with 37,500 or more and less than 50,000 units  
10 of average daily attendance, one dollar (\$1) per average daily  
11 attendance.

12 (5) For counties with less than 37,500 units of average daily  
13 attendance, thirty-seven thousand five hundred dollars (\$37,500).

14 (m) Allocate funds appropriated by Chapter 415 of the Statutes  
15 of 1995 for local assistance to school districts and county offices  
16 of education based on average daily attendance reported in the  
17 second principal apportionment in the prior fiscal year.

18 (n) (1) Provide that all school districts, charter schools, and  
19 county offices of education that receive funding under subdivision  
20 (m) make reasonable progress toward providing a tobacco-free  
21 environment in school facilities for pupils and employees.

22 (2) Require that all school districts, charter schools, and county  
23 offices of education that receive funding pursuant to paragraph (1)  
24 adopt and enforce a tobacco-free campus policy no later than July  
25 1 of each fiscal year. The policy shall prohibit the use of products  
26 containing tobacco and nicotine, including, but not limited to,  
27 smokeless tobacco, snuff, chew, clove cigarettes, and electronic  
28 cigarettes that can deliver nicotine and nonnicotine vaporized  
29 solutions, at any time, in charter school or school district-owned  
30 or leased buildings, on school or district property, and in school  
31 or district vehicles. However, this section does not prohibit the use  
32 or possession of prescription products, nicotine patches, or nicotine  
33 gum. Information about the policy and enforcement procedures  
34 shall be communicated clearly to school personnel, parents, pupils,  
35 and the larger community. Signs stating “Tobacco use is  
36 prohibited” shall be prominently displayed at all entrances to school  
37 property as provided in Section 104559. Information about smoking  
38 cessation support programs shall be made available and encouraged  
39 for pupils and staff. Any school district, charter school, or county  
40 office of education that does not have a tobacco-free district policy

1 implemented by July 1, shall not be eligible to apply for funds  
2 from the Cigarette and Tobacco Products Surtax Fund for that  
3 fiscal year.

4 SEC. 2. Section 104466 of the Health and Safety Code is  
5 amended to read:

6 104466. Notwithstanding subdivision (a) of Section 2.00 of  
7 the Budget Act of 2002 and any other provision of law,  
8 commencing with the appropriation for the 2002–03 fiscal year,  
9 and for each fiscal year thereafter, any amount appropriated to the  
10 department or the State Department of Education to implement  
11 the following tobacco use prevention programs shall be available  
12 for encumbrance and expenditure for three fiscal years beyond the  
13 date of the appropriation:

14 (a) The program to evaluate tobacco control programs provided  
15 for in subdivisions (b) and (c) of Section 104375.

16 (b) The tobacco use prevention media campaign provided for  
17 in subdivision (e) of Section 104375.

18 (c) The competitive grant program provided for in Section  
19 104385.

20 (d) The local lead agency tobacco use prevention programs  
21 provided for in Section 104400.

22 (e) The tobacco use prevention program directed at schools  
23 provided for in Sections 104420, 104430, and 104435.

24 SEC. 3. Article 4 (commencing with Section 104559) is added  
25 to Chapter 1 of Part 3 of Division 103 of the Health and Safety  
26 Code, to read:

27  
28 Article 4. Tobacco Use Prohibition  
29

30 104559. (a) The use of tobacco and nicotine products is  
31 prohibited at any time in a county office of education, charter  
32 school or school district-owned or leased buildings, on school or  
33 district property, and in school or district vehicles. This includes,  
34 but is not limited to, smokeless tobacco, snuff, chew, clove  
35 cigarettes, and other nicotine delivery devices, such as electronic  
36 cigarettes.

37 (b) School districts, charter schools, and county offices of  
38 education shall prominently display signs at all entrances to school  
39 property stating “Tobacco use is prohibited.”

1 SEC. 4. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

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